

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

JASON ROYCE ALLEN, *et al.*,  
Defendants-Appellants,  
v.  
JOHN P. FITZGERALD, III, *Acting  
U.S. Trustee for Region Four*,  
Plaintiff-Appellee.

Nos. 7:18-cv-134 and 5:18-cv-57  
(Consolidated)

Hon. Michael F. Urbanski

**MOTION FOR LEAVE TO WITHDRAW AS COUNSEL OF  
RECORD FOR DEFENDANTS-APPELLANTS JOHN C.  
MORGAN, JR., JOHN C. MORGAN, JR., PLLC, AND  
DARREN T. DELAFIELD**

In accordance with Local Rule 6(i), Brian L. Shaw and Terence G. Banich of Fox Rothschild LLP and Christopher W. Stevens, Richard C. Maxwell, and Justin E. Simmons of Woods Rogers PLC (collectively, “Withdrawing Counsel”) move for leave to withdraw as counsel of record for Defendants-Appellants John C. Morgan, Jr. (“Morgan”), John C. Morgan, Jr., PLLC (“Morgan PLLC”), and Darren T. Delafield (“Delafield”) in these consolidated cases. As support for this Motion, Withdrawing Counsel state as follows:

1. These consolidated cases are currently before this Court on appeal from the Bankruptcy Court. On December 11, 2019, this Court entered an order affirming the Bankruptcy Court’s decision in part, vacating it in part, and remanding it in part. (ECF No. 143.)

2. Withdrawing Counsel represented Morgan, Morgan PLLC, and Delafield during the proceedings before the Bankruptcy Court and during the appeal before this Court. But Morgan, Morgan PLLC, and Delafield are no longer able to meet their obligations to Withdrawing Counsel, and so all now agree that Withdrawing Counsel should be allowed to withdraw as counsel of record for Morgan, Morgan PLLC, and Delafield for all future proceedings. To show their consent for this course of action, Morgan, Morgan PLLC, and Delafield have all endorsed the proposed order attached as **Exhibit 1**.

3. Before filing this motion, Withdrawing Counsel contacted counsel for Plaintiff-Appellee John P. Fitzgerald, III, Acting United States Trustee for Region Four, and asked whether Plaintiff-Appellee had any objection to the withdrawal of Withdrawing Counsel as counsel of record for Morgan, Morgan PLLC, and Delafield. In response, Plaintiff-Appellee's counsel advised that they could not respond one way or the other because the Assistant United States Trustee was on vacation.

4. Under these circumstances, Withdrawing Counsel submit that good cause exists for allowing their withdrawal as counsel of record for Morgan, Morgan PLLC, and Delafield for all future proceedings.

Based on the foregoing, Withdrawing Counsel request that the Court grant this Motion and enter the proposed order attached as **Exhibit 1** (or a substantially

similar order) allowing them to withdraw as counsel of record for Morgan, Morgan PLLC, and Delafield for all future proceedings.

Dated: January 9, 2020

Respectfully submitted,

/s/Justin E. Simmons

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## **CERTIFICATE OF SERVICE**

I hereby certify that on January 9, 2020, I filed the foregoing document (with a proposed order) using the Court's CM/ECF system, which will send notice of the filing to the following counsel of record:

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